

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

CONCORD MUSIC GROUP, INC., ET AL.,

Plaintiffs,

v.

ANTHROPIC PBC,

Defendant.

Case No. 3:23-cv-01092

Chief Judge Waverly D. Crenshaw, Jr.
Magistrate Judge Alistair Newbern

**CHAMBER OF PROGRESS AND NETCHOICE, LLC’S REPLY MEMORANDUM IN
SUPPORT OF MOTION FOR LEAVE TO FILE BRIEF AS *AMICI CURIAE* IN
OPPOSITION TO PLAINTIFFS’ MOTION FOR PRELIMINARY INJUNCTION**

Plaintiffs offer no good reason for denying leave to file Chamber of Progress and NetChoice’s (“*amici*”) proposed *amicus* brief. Plaintiffs’ principal argument is that there is “[n]o basis or need” for any *amicus* brief because the factual and legal issues are “straightforward.” Opp. 1. They are not. There is no on-point precedent resolving whether using content to train generative AI models is or is not a fair use of that content. That issue is being actively litigated in over a dozen cases around the country. Yet, Plaintiffs seek to short circuit those matters, requesting relief that is not only extraordinary, but unprecedented, as none of the pending cases granted the sweeping injunctive relief Plaintiffs request here.

Plaintiffs next argue that *amici* lack a sufficient “interest” to warrant being heard. Opp. 2. But the general public has a significant interest in the proper resolution of these issues, and *amici* have a particular interest given their missions and their partners and members, who themselves are innovating and developing generative AI tools. *Amici*’s interests are especially relevant in the context of this preliminary injunction motion because

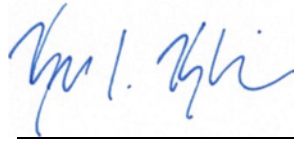
the governing law mandates “consideration of the public interest”—a focus of *amici*’s proposed brief. *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 32 (2008).

Moreover, none of the other considerations mentioned by Plaintiffs warrant denial of leave. “Even when a party is very well represented, an amicus may provide important assistance to the court.” *Neonatology Assocs., P.A. v. Commissioner*, 293 F.3d 128, 132 (3d Cir. 2002) (Alito, J.). The “costs” (Opp. 1) of responding to the *amicus* brief are minimal, easily borne by Plaintiffs (who collectively generate billions of dollars in yearly revenue), and readily justified by the amount in controversy and the importance of the issues in dispute. Accepting the *amicus* brief would not “unduly delay” proceedings. Opp. 1. Plaintiffs promptly opposed *amici*’s motion for leave, and Plaintiffs can further address it in their reply, due to be filed in three weeks. ECF No. 57.

More broadly, Plaintiffs presume that courts should grant leave to file only in exceptional circumstances. But that is not the standard, as courts across the country routinely grant leave, as do courts in this District. *See, e.g., Eight Mile Style, LLC v. Spotify USA Inc.*, No. 3:19-cv-736, ECF No. 470 (M.D. Tenn. Jan. 22, 2024) (granting leave to file); *Novo Nordisk Inc. v. DCA Pharmacy*, No. 3:23-cv-668, ECF No. 32 (M.D. Tenn. Nov. 28, 2023) (Crenshaw, J.) (same); *Chamber of Commerce v. SEC*, No. 3:22-cv-561, ECF No. 52 (M.D. Tenn. Oct. 17, 2022) (same); *see also R.K. v. Lee*, 568 F. Supp. 3d 895, 899 n.1, 905 (M.D. Tenn. 2021) (discussing a filed amicus brief filed in support of a motion for a preliminary injunction) (Crenshaw, J.).

Accordingly, amici respectfully request that the Court grant leave to file their proposed *amicus* brief.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I certify that I filed Chamber of Progress and NetChoice, LLC's Reply Memorandum in Support of Motion for Leave to File Brief as *Amici Curiae* in Opposition to Plaintiffs' Motion for Preliminary Injunction on the Court's CM/ECF system on this 23rd day of January, 2024, which forwarded a copy to:

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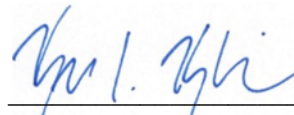
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